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1775

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Date: August 18, 2004

To: Examiner John Zimmerman Fax: 703-872-9306
Phone: 571-271-1547

From: Michael D. Smith Fax: 248-813-1211
Phone: 248-813-1250

Subject: Terminal Disclaimer
DP-300393
USSN 09/898,519

c:

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Urgent

For Review

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Date of Deposit: August 18, 2004

Signature: Suzanne M. Britt
Suzanne M. Britt

AUG 18 2004

PATENT
DP-300393

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICIAL

Applicant: Dale Francis Obeshaw)
Docket No.: DP-300393) Examiner: Zimmerman, John J.
Serial No.: 09/898,519)
Filed: July 3, 2001) Art Unit: 1775
Title: MODIFIED CONTOURED CRUSHABLE)
STRUCTURAL MEMBERS AND)
METHODS FOR MAKING THE SAME) Confirmation Code: 7536

REMARKS AND TERMINAL DISCLAIMER TO OBLIGATE
A DOUBLE PATENTING REJECTION (37 CFR 1.321(c))

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Responsive to the Office Action dated May 4, 2004, in which:

claims 1-15, 17-31, 33-34, 36-38 and 40-42 were rejected under the judicially-created doctrine of obviousness-type double patenting over claims 1-28 of US Patent No. 6,586,110 (Obeshaw) in view of Applicant's disclosure of the prior art;

claims 1-15, 17-31, 33-34, 36-38 and 40-42 were provisionally rejected under the judicially-created doctrine of obviousness-type double patenting over claims 1-39 of copending Application Serial No. 09/900,762 (Obeshaw) in view of Applicant's disclosure of the prior art; and

claims 1-15, 17-31, 33-34, 36-38 and 40-42 were provisionally rejected under the judicially-created doctrine of obviousness-type double patenting over claims 1-38 of copending Application Serial No. 09/899,320 (Obeshaw) in view of Applicant's disclosure of the prior art, the following Remarks and Disclaimer are submitted.

REMARKS

The Examiner is hereby notified that Application Serial No. 09/899,320 has been abandoned, thereby obviating the above-mentioned provisional rejection of claims 1-15, 17-31, 33-34, 36-38 and 40-42 of the instant application over claims 1-38 of Application Serial No. 09/899,320.

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The Examiner is further notified that a division of abandoned Application Serial No. 09/899,320, Application Serial No. 10/843,770 (Obeshaw), was filed on May 12, 2004.

DISCLAIMER

The owner, Delphi Technologies, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156, and 173, as presently shortened by any terminal disclaimer, of US Patent No. 6,586,110 or any patent issuing from Application Serial No. 09/900,762. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and US Patent No. 6,586,110 and any patent issuing from Application Serial No. 09/900,762 are commonly owned. This agreement runs with any patent granted on the instant application, the entire right, title and interest of which is owned by Delphi Technologies, Inc. by virtue of an assignment recorded in the United States Patent and Trademark Office on January 2, 2002, at Reel 012411, Frame 0278, and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156, and 173 of the patent forming the basis of the double patenting rejection(s), namely, US Patent No. 6,586,110 or any patent issuing from Application Serial No. 09/900,762, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

The undersigned hereby declares that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001 and that such willful false statements may jeopardize the validity of the instant application or any patent issued thereon.

The undersigned is empowered to act on behalf of Delphi Technologies, Inc.

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It is requested that the Disclaimer Fee under 37 CFR 1.20(d) be charged to Deposit Account 50-0831, Delphi Technologies, Inc. In the event that the need for an extension of time, payment of fee, or payment of additional amount of fee in connection with this communication has been overlooked, owner petitions therefor and authorizes the Commissioner to charge payment of any such fees and to credit any overpayment to Deposit Account No. 50-0831, Delphi Technologies, Inc.

Respectfully submitted,

Dated: August 18, 2004

Thomas Twomey
Thomas N. Twomey, Reg. No. 28,916
Vice President

Delphi Technologies, Inc.
Legal Staff, M/C 480-410-202
P.O. Box 5052
Troy, MI 48007-5052

CERTIFICATE OF FACSIMILE TRANSMISSION

The undersigned hereby certifies that a facsimile of this document is being transmitted to the United States Patent and Trademark Office at (703) 872-9306 on August 18, 2004.

Suzanne Britt
Suzanne Britt